

Permitting & Assistance Branch Staff Report

Revised Solid Waste Facilities Permit for

Premier Recycle

SWIS No. 43-AN-0023

December 16, 2013

Background Information, Analysis, and Findings:

This report was developed in response to the City of San Jose, Department of Planning, Building, and Code Enforcement Agency's (LEA) request for the Department of Resources Recycling and Recovery (Department) concurrence on the issuance of a proposed revised Solid Waste Facilities Permit (SWFP) for Premier Recycle, SWIS No. 43-AN-0023, located in City of San Jose and owned by Robert Hill, and operated by Premier Recycle. A copy of the proposed permit is attached. This report contains Permitting & Assistance Branch staff's analysis, findings, and recommendations.

The proposed permit was initially received on January 7, 2013. A new proposed permit was received on December 5, 2013. Action must be taken on this permit no later than February 3, 2014. If no action is taken by February 3, 2014, the Department will be deemed to have concurred with the issuance of the proposed revised SWFP.

Proposed Changes

The following changes to the first page of the permit are being proposed:

	Current Permit (2004)	Proposed Permit
Permitted Hours of Operation	Monday – Saturday 3:00 AM – 4:00 PM	Monday – Sunday 24 Hour Site Operations Receipt of C&D Material - 3:00 AM – 6:00 PM (Premier Trucks) Receipt of C&D Material - 7:00 AM – 5:00 PM (Contracted, Non-Premier Trucks)
Permitted Maximum Tonnage	300 Tons/Day	550 Tons/Day
Permitted Traffic Volume	50 Vehicles/Day	Traffic will be regulated by CCR, T14 Section 17418.3: Traffic flow through the facility shall be controlled to prevent the following: (1) Interference with, or creation of, a safety hazard on adjacent public streets or roads, (2) on-site safety hazards, and (3) interference with operations.

Key Issues

The proposed permit will allow for the following:

1. Increase hours of operation from the current six days per week (Monday through Saturday – 3:00 a.m. – 4:00 p.m.) to 24 hours/day, Monday through Sunday.

2. Increase total daily tonnage from 300 tons per day to 550 tons per day. Tonnage increase will be implemented in phases as stipulated in condition 17 (e) of the proposed SWFP.

Background

Premier Recycle (PR) is an existing Large Volume Transfer/Processing facility located at 250 Leo Avenue, San Jose, Santa Clara County. The land uses surrounding the facility consist primarily of industrial uses, including metal fabricators, a pest control facility, sheet metal shops, auto wreckers, a bread company, recycling center, and a United Parcel Service operation. There is also a mobile home park located approximately 330 feet east of the site on South Seventh Street.

PR is contracted by various construction contractors to collect construction/demolition debris in roll-off boxes, to be retrieved and transported to the facility for sorting and recycling purposes. Recyclable materials i.e. wood, metal, cardboard, sheetrock, concrete, plastic, etc. are sorted on site and transported to other facilities for further processing. Residual waste material is sent to local landfills for disposal. With this application for permit revision, the operator proposes to process up to 550 tons per day of Construction and Demolition material on a 1.75 acre parcel.

Findings:

Staff recommends concurrence in the issuance of the proposed revised SWFP. All of the required submittals and findings required by Title 27 of the California Code of Regulations (27 CCR), Section 21685, have been provided and made. Staff has determined that the California Environmental Quality Act (CEQA) requirements have been met to support concurrence. The findings that are required to be made by the Department when reaching a determination are summarized in the following table. The documents on which staff’s findings are based have been provided to the Branch Chief with this Staff Report and are permanently maintained by the Waste Permitting, Compliance, and Mitigation Division.

27 CCR Sections	Findings	
21685(b)(1) LEA Certified Complete and Correct Report of Facility Information	The LEA provided the required certification in their permit submittal letter dated January 3, 2013.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(2) LEA Five Year Permit Review	A Permit Review Report was prepared by the LEA on June 16, 2009. The LEA provided a copy to the Department on January 7, 2013. The changes identified in the review are reflected in this permit revision.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(3) Solid Waste Facility Permit	Staff received a proposed Solid Waste Facilities Permit on December 5, 2013.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(4)(A) Consistency with Public Resources Code 50001	The LEA in their permit submittal package received on January 7, 2013, provided a finding that the facility is consistent with PRC 50001. Waste Evaluation &	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

27 CCR Sections	Findings	
	Enforcement Branch (WEEB) staff in the Jurisdiction Product & Compliance Unit found the facility is identified in the Nondisposal Facility Element and with the Countywide Integrated Waste Management Plan, as described in the memorandum dated January 14, 2013.	
21685(b)(8) Operations Consistent with State Minimum Standards	WEEB staff in the Inspections and Enforcement Agency Compliance Unit found that the facility was in compliance with all operating and design requirements during an inspection conducted on October 21, 2013. See Compliance History below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(9) LEA CEQA Finding	The LEA provided a finding in their permit submittal package received on January 7, 2013, that the proposed permit is consistent with and supported by the existing CEQA documentation. See the Environmental Analysis below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21650(g)(5) Public Notice and/or Meeting, Comments	A Public Informational Meeting was held by the LEA on December 6, 2012. No written comments were received by LEA or Department staff. See Public Comments section below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
CEQA Determination to Support Responsible Agency's Findings	The Department is a responsible agency under CEQA with respect to this project. Permitting and Assistance Branch staff has determined that the CEQA record can be used to support the Branch Chief's action on the proposed revised SWFP.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

Compliance History:

WEEB staff in the Inspections and Enforcement Agency Compliance Unit conducted a pre-permit inspection on October 21, 2013 and found that the facility is in compliance with applicable state minimum standards. However, staff noted one violation of PRC 44014(b) – Operator Compliance with Terms and Conditions and one violation of Title 14 CCR Section 18221.6 – Transfer/Processing Reporting Requirements.

PRC 44014 (b) – Operator Complies with Terms and Conditions. The operator has not complied with Section 5 (d) of the current Solid Waste Facility Permit which limits the traffic volume to 50 vehicles per day. At the time of the inspection, a log of daily vehicle trips was not available for review. The operator is required to maintain records of vehicle counts and have those records available for review by both the LEA and CalRecycle staff upon request.

Title 14 CCR Section 18221.6 – Transfer/Processing Reporting Requirements. During the inspection, WEEB staff noted that the operator was not in compliance with Section 3.1.7 (Hazardous, Liquid, and Special Waste Exclusion) in the current Transfer/Processing Report (TPR). This Section states that prohibited items or hazardous waste would be noted in the

operator's log of special occurrences and removed by a licensed hazardous waste hauler within 90 days of receipt.

Both violations will be corrected by the issuance of the proposed solid waste facilities permit which includes updated information in the TPR to reflect current operations and a removal of the daily vehicle limit.

Below are the details of the facility's compliance history based on the LEA's monthly inspection reports during the last five years:

- 2013 (April)
 - One violation of Title 14 CCR Section 17409.5 – Load Checking.
- 2013 (January):
 - One violation of Title 14 CCR Section 17410.3 – Training.
 - One violation of Title 14 CCR Section 17418.3 – Traffic Control.
 - One violation of Title 14 CCR Section 17407.5 – Hazardous Liquids and Special Waste.
 - One violation of Title 14 CCR Section 17414 – Record Keeping Requirements.
 - One violation of Title 14 CCR Section 17409.5 – Load Checking.
 - One violation of Title 14 CCR Section 17409.4 – Signs.
 - One violation of Title 14 CCR Section 18221.6 – Transfer/Processing Reporting Requirements.
 - One violation of PRC 44014 (b) – Operator Complies with Terms and Conditions.
- 2011 – 2012 No violations were noted.
- 2010 (October) - One violation of PRC 44014 (b) – Operator Complies with Terms and Conditions.
- 2008 – 2009 No violations were noted.

With the exception of the current issues with the permit and TPR, all violations were corrected to the satisfaction of the LEA.

Environmental Analysis:

Under the California Environmental Quality Act (CEQA), the Department must consider, and avoid or substantially lessen where possible, any potentially significant environmental impacts of the proposed SWFP before the Department concurs in it. In this case, the Department is a Responsible Agency under CEQA and must utilize the environmental document prepared by the City of San Jose, Department of Planning, Building, and Code Enforcement, acting as Lead Agency, absent changes in the project or the circumstances under which it will be carried out that justify the preparation of additional environmental documents and absent significant new information about the project, its impacts and the mitigation measures imposed on it.

The changes that will be authorized by the issuance of the proposed permit include:

1. Increase hours of operation to 24 hours/day, Monday through Sunday.
2. Increase total daily tonnage from 300 tons per day to 550 tons per day.

These changes are supported by the following environmental document.

A Mitigated Negative Declaration (MND), State Clearinghouse No. 2011112033, was circulated for a 30 day comment period from November 10, 2011 to December 9, 2011. The project analysis concluded that any physical environmental impacts caused by the project could be mitigated to less than significant levels with the implementation of the mitigation measures included in the Mitigation, Monitoring and Reporting Program. The MND, together with the Mitigation Monitoring Program, was approved by the Lead Agency on December 9, 2011.

The City of San Jose Department of Planning, Building, and Code Enforcement (LEA), has provided a finding that the proposed revised SWFP is consistent with and supported by the cited environmental document.

Staff recommends that the Department, acting as a Responsible Agency under CEQA, utilize the MND as prepared by the Lead Agency in that there are no grounds under CEQA for the Department to prepare a subsequent or supplemental environmental document or assume the role of Lead Agency for its consideration of the proposed revised SWFP. Department staff has reviewed and considered the CEQA Findings adopted by the Lead Agency. Department staff further recommends the MND, together with the CEQA finding, is adequate for the Branch Chief's environmental evaluation of the proposed project for those project activities which are within the Department's expertise and/or powers, or which are required to be carried out or approved by the Department.

The administrative record for the decision to be made by the Department includes the administrative record before the LEA, the proposed revised SWFP and all of its components and supporting documentation, this staff report, the MND adopted by the Lead Agency, and other documents and materials utilized by the Department in reaching its decision on concurrence in, or objection to, the proposed revised SWFP. The custodian of the Department's administrative record is Dona Sturgess, Legal Office, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, CA 95812-4025.

Public Comments:

The project document availability, hearings, and associated meetings were noticed consistent with the SWFP requirements. The LEA held a public informational meeting on December 6, 2012, at Premier Recycle Facility, in the City of San Jose. No oral or written comments were received by the LEA or Department staff.

Department staff provided an opportunity for public comment during the CalRecycle Monthly Public Meeting on January 15, 2013, February 19, 2013 and December 17, 2013.